

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

F.C.A.No. 204 of 2016

JUDGMENT: (*Per VRS,J*)

This appeal arises out of an order passed by the Family Court, directing payment of maintenance only to a minor daughter of the appellant at the rate of Rs.5,000/- per month.

2. Heard Mr. V.R. Avula, learned counsel for the appellant.
3. Though an appeal under Section 19 of the Family Court Act, is in the nature of a regular appeal, somewhat akin to an appeal under Section 96 of the Code of Civil Procedure, we do not think that the appeal deserves even admission.
4. The appellant's wife and daughter filed a petition in F.C.O.P.No.86 of 2008 on the file of the Family Court, Ongole, seeking maintenance. His wife gave up her claim for maintenance, on the ground that she subsequently got married. Therefore, the lis was confined only to the claim for maintenance made by his daughter.
5. Eventually, the Family Court passed an order directing payment of Rs.5,000/- per month to the girl child with effect from 22.08.2007

and also created a charge on the property for realization of the maintenance. It is against the said judgment and decree that the appellant is before us.

6. In the counter affidavit filed by the appellant to the main original petition, it was not his case that the girl child was not born to him. At the time of filing of the petition for maintenance, the girl child was aged one year seven months. By now, the girl child would have reached about 10 years of age.

7. It is not the case of the appellant that the girl child is not entitled to any maintenance for some reason. The girl child appears to be suffering from autism, as seen from the finding recorded by the Family Court. Though the appellant contends that his wife is well employed, he cannot shirk his duty as a father, especially in relation to a girl child, who suffers from autism.

8. The next contention of the appellant is that the property, on which a charge is created, is already the subject matter of a partition suit and the same belonged to his mother. But, the same does not deter the Court from creating a charge, especially after the amendment to Section 6 of the Hindu Succession Act. Hence, the appeal is devoid of merits. Therefore, it is dismissed.

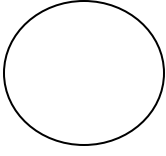
Consequently, miscellaneous petitions if any pending in the appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

15th December, 2016
cbs





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